

Wage and Hour Division, Labor

§ 520.1

of the type defined in § 519.12(a) employed at the campus of the institution at less than the minimum wage otherwise applicable under the Act, and the total number of all employees at the campus to whom the minimum wage provision of the Act applies.

(c) The records required in this section, including a copy of any full-time student certificate issued, shall be kept for a period of 3 years at the place and made available for inspection, both as provided in part 516 of this chapter.

[40 FR 6329, Feb. 11, 1975; 40 FR 22546, May 23, 1975]

§ 519.18 Amendment or replacement of a full-time student certificate.

In the absence of an objection by the employer (which may be resolved in the manner provided in part 528 of this chapter) the authorized officer upon his/her own motion may amend the provisions of a certificate when it is necessary by reason of the amendment of these regulations, or may withdraw a certificate and issue a replacement certificate when necessary to correct omissions or apparent defects in the original certificates.

§ 519.19 Reconsideration and review.

(a) Within 15 days after being informed of a denial of an application for a full-time student certificate or within 45 days after FEDERAL REGISTER publication of a statement of the terms of the certificate granted, (subsequent to April 30, 1976, within 60 days after a certificate is granted), any person aggrieved by the action of an authorized officer in denying or granting a certificate may:

(1) File a written request for reconsideration thereof by the authorized officer who made the decision in the first instance, or

(2) File with the Administrator a written request for review.

(b) A request for reconsideration shall be accompanied by a statement of the additional evidence which the applicant believes may materially affect the decision and a showing that there were reasonable grounds for failure to present such evidence in the original proceedings.

(c) Any person aggrieved by the reconsideration of an authorized officer

may, within 15 days after such determination, file with the Administrator a written request for review.

(d) A request for review shall be granted where reasonable grounds for the review are set forth in the request.

(e) If a request for reconsideration or review is granted, the authorized officer or the Administrator may, to the extent he/she deems it appropriate, afford other interested persons an opportunity to present data, views, or argument.

[40 FR 6329, Feb. 11, 1975; 40 FR 22546, May 23, 1975]

§ 519.20 Amendment or revocation of the regulations in this subpart.

The Administrator may at any time upon his/her own motion or upon written request of any interested person or persons setting forth reasonable grounds therefor, and after opportunity has been given to interested persons to present data, views, or argument, amend or revoke any of the regulations of this subpart.

PART 520—EMPLOYMENT OF STUDENT-LEARNERS

Sec.

520.1 Applicability of the regulations contained in this part.

520.2 Definitions.

520.3 Application for a special student-learner certificate.

520.4 Procedure for action upon application.

520.5 Conditions necessary for favorable review.

520.6 Terms and conditions of employment under special student-learner certificates.

520.7 Employment records to be kept.

520.8 Duration of certificates.

520.9 Compliance with established standards.

520.10 Reconsideration and review.

520.11 Amendment to the regulations in this part.

AUTHORITY: Sec. 14, 52 Stat. 1068, as amended; 29 U.S.C. 214.

§ 520.1 Applicability of the regulations contained in this part.

The regulations contained in this part are issued in accordance with section 14 of the Fair Labor Standards Act of 1938, as amended, to provide for the employment under special certificates

§ 520.2

of student-learners at wages lower than the minimum wage applicable under section 6 of the Act. Such certificates shall be subject to the terms and conditions hereinafter set forth.

[18 FR 3290, June 10, 1953]

§ 520.2 Definitions.

As used in the regulations contained in this part:

(a) A *student-learner* is a student who is receiving instruction in an accredited school, college or university and who is employed on a part-time basis, pursuant to a bona fide vocational training program.

(b) A *bona fide vocational training program* is one authorized and approved by a State board of vocational education or other recognized educational body and provides for part-time employment training which may be scheduled for a part of the work day or work week, for alternating weeks or for other limited periods during the year, supplemented by and integrated with a definitely organized plan of instruction designed to teach technical knowledge and related industrial information given as a regular part of the student-learner's course by an accredited school, college, or university.

[18 FR 3290, June 10, 1953]

§ 520.3 Application for a special student-learner certificate.

(a) Whenever the employment of a student-learner at wages lower than the minimum wage applicable under section 6 of the Fair Labor Standards Act of 1938, as amended, is believed necessary to prevent curtailment of opportunities for employment, an application for a special certificate authorizing the employment of such student-learner at subminimum wages shall be filed in duplicate by the employer with the authorized representative of the Administrator at the appropriate Regional or Caribbean Office of the Wage and Hour Division, U.S. Department of Labor.

(b) Application must be made on the official form furnished by the Division and must be signed by the employer, the appropriate school official and the student-learner. The application must contain all information required by

29 CFR Ch. V (7-1-97 Edition)

such form, including among other things, a statement clearly outlining the vocational training program and showing, particularly, the processes in which the student-learner will be engaged when in training on the job; a statement clearly outlining the school instruction directly related to the job; the total number of workers employed in the establishment; the number and hourly wage rate of experienced workers employed in the occupation in which the student-learner is to be trained; the hourly wage rate or progressive wage schedule which the employer proposes to pay the student-learner; data regarding the age of the student-learner; the period of employment training at subminimum wages; the number of hours of employment training a week; the number of hours of school instruction a week; and a certification by the appropriate school official that the student named therein will be receiving instruction in an accredited school, college or university and will be employed pursuant to a bona fide vocational training program, as defined in § 520.2(b).

(c) The certification by the appropriate school official must satisfy the following conditions:

(1) The application must be properly executed in conformance with § 520.3.

(2) The employment training must conform with the provisions of § 520.5 (a), (c), (d), and (g) and paragraphs (a) and (c) of § 520.6.

(3) The occupation must not be one for which a student-learner application was previously submitted by the employer and a special certificate was denied by the Administrator or his authorized representative.

[35 FR 13884, Sept. 2, 1970]

§ 520.4 Procedure for action upon application.

(a) The certification by the appropriate school official on an application for a special student-learner certificate authorizing the employment of a student-learner at subminimum wages (see § 520.3(b)) shall constitute a temporary authorization for the employment of a student-learner at wages lower than the minimum wage applicable under section 6 of the act, effective

from the date such application is forwarded to the Division in conformance with § 520.3 and, at the end of 30 days, shall become the permanent special student-learner certificate unless, after review, the Administrator or his authorized representative denies the application, issues a certificate with modified terms and conditions, or expressly extends the period of review.

(b) Upon receipt of an application for the employment of a student-learner, the Administrator or his authorized representative shall review the application for compliance with this part. If an application is to be denied, notification of denial should be made to the appropriate school official, the employer, and the student within the 30 days following the date such application was forwarded to the Division, unless additional time for review is considered necessary or appropriate, and in which case the appropriate school official, the employer, and the student shall be so notified. To the extent feasible, the Administrator or his authorized representative shall provide an opportunity to other interested persons to present data and views on the application before denying a special student-learner certificate.

(c) Whenever a notification of denial is mailed to the employer, such denial shall be without prejudice to any subsequent application, except under the circumstances referred to in § 520.3(c)(3). Two copies of the notification of denial shall be mailed to the appropriate school official, one of which shall be retained for his records and the other shall be presented to the student-learner.

[35 FR 13884, Sept. 2, 1970]

§ 520.5 Conditions necessary for favorable review.

The following conditions must be satisfied before a special certificate may be issued authorizing the employment of a student-learner at subminimum wages:

(a) Any training program under which the student-learner will be employed must be a bona fide vocational training program as defined in § 520.2;

(b) The employment of the student-learner at subminimum wages authorized by the special certificate must be

necessary to prevent curtailment of opportunities for employment;

(c) The student-learner must be at least sixteen years of age (or older) as may be required pursuant to paragraph (d) of this section;

(d) The student-learner must be at least 18 years of age if he is to be employed in any activity prohibited by virtue of a hazardous occupation order of the Secretary of Labor (See part 570, subpart E, of this chapter, but note the specific exemptions for student-learners in several of the orders);

(e) The occupation for which the student-learner is receiving preparatory training must require a sufficient degree of skill to necessitate a substantial learning period;

(f) The training must not be for the purpose of acquiring manual dexterity and high production speed in repetitive operations;

(g) The employment of a student-learner must not have the effect of displacing a worker employed in the establishment;

(h) The employment of the student-learners at subminimum wages must not tend to impair or depress the wage rates or working standards established for experienced workers for work of a like or comparable character;

(i) The occupational needs of the community or industry warrant the training of student-learners;

(j) There are no serious outstanding violations of the provisions of a student-learner certificate previously issued to the employer, or serious violations of any other provisions of the Fair Labor Standards Act of 1938, as amended, by the employer which provide reasonable grounds to conclude that the terms of the certificate would not be complied with, if issued;

(k) The issuance of such a certificate would not tend to prevent the development of apprenticeship in accordance with the regulations applicable thereto part 521 of this chapter) or would not impair established apprenticeship standards in the occupation or industry involved;

(l) The number of student-learners to be employed in one establishment must

§ 520.6

not be more than a small proportion of its working force.

[18 FR 3290, June 10, 1953, as amended at 21 FR 1349, Mar. 1, 1956; 26 FR 8009, Aug. 26, 1961; 35 FR 13884, Sept. 2, 1970]

§ 520.6 Terms and conditions of employment under special student-learner certificates.

(a) The special minimum wage rate shall be not less than 75 percent of the applicable minimum under section 6 of the act.

(b) No special student-learner certificate may be issued retroactively.

(c)(1) The number of hours of employment training each week at subminimum wages pursuant to a certificate, when added to the hours of school instruction, shall not exceed 40 hours, except that authorization may be granted by the Administrator or his authorized representative for a greater number of hours if found to be justified by extraordinary circumstances.

(2) When school is not in session on any school day, the student-learner may work a number of hours in addition to the weekly hours of employment training authorized by the certificate: *Provided, however,* That the total hours worked shall not exceed 8 hours on any such day. A notation shall be made in the employer's records to the effect that school not being in session was the reason additional hours were worked on such day.

(3) During the school term, when school is not in session for the entire week, the student-learner may work at his employment training a number of hours in the week in addition to those authorized by the certificate: *Provided, however,* That the total hours shall not exceed 40 hours in any such week. A notation shall be made in the employer's records to the effect that school not being in session was the reason additional hours were worked in such week.

(d) A special student-learner certificate shall not constitute authorization to pay a subminimum wage rate to a student-learner in any week in which he is employed for a number of hours in addition to the number authorized in the certificate, except as provided in

29 CFR Ch. V (7-1-97 Edition)

paragraphs (c)(1), (2), and (3) of this section.

[35 FR 13884, Sept. 2, 1970]

§ 520.7 Employment records to be kept.

In addition to any other records required under the record-keeping regulations (part 516 of this chapter) the employer shall keep the following records specifically relating to student-learners employed at subminimum wage rates:

(a) Any worker employed as a student-learner shall be identified as such on the payroll records, with each student-learner's occupation and rate of pay being shown;

(b) The employer's copy of the application, filed in accordance with § 520.4(a) and any certificate issued by the Administrator or his authorized representative must be available at all times for inspection for a period of 3 years from the last date of employment of the student-learner.

(c) Notations should be made in the employer's records when additional hours are worked by reason of school not being in session as provided in § 520.6(c) (2) and (3).

[18 FR 3291, June 10, 1953, as amended at 35 FR 13884, Sept. 2, 1970]

§ 520.8 Duration of certificates.

A special student-learner certificate shall be effective for a period not to exceed the length of 1 school year unless a longer period is found to be justified by extraordinary circumstances. No certificate shall authorize employment training beyond the date of graduation.

[35 FR 13885, Sept. 2, 1970]

§ 520.9 Compliance with established standards.

No provision of the regulations contained in this part, or of any certificate or temporary authority thereunder, shall excuse noncompliance with higher standards applicable to student-learners which may be established under any other Federal law, or any State law, municipal ordinance or trade union agreement.

[35 FR 13885, Sept. 2, 1970]

§ 520.10 Reconsideration and review.

(a) Any person aggrieved by the action of an authorized representative of the Administrator in denying or granting a special student-learner certificate may within 15 days after such action, (1) File a written request for reconsideration thereof by the authorized representative of the Administrator who made the decision in the first instance, or (2) file a written request for review of the decision by the Administrator or an authorized representative who has taken no part in the action which is the subject of review.

(b) A request for reconsideration shall be accompanied by a statement of the additional evidence which the applicant believes may materially affect the decision and a showing that there were reasonable grounds for failure to present such evidence in the original proceedings.

(c) Any person aggrieved by the reconsidered determination of an authorized representative of the Administrator may, within 15 days after such determination, file a written request for review.

(d) A request for review shall be granted where reasonable grounds for the review are set forth in the request.

(e) If a request for reconsideration or review is granted, the Administrator or his authorized representative may, to the extent he deems it appropriate, afford other interested persons an opportunity to present data and views.

[18 FR 3291, June 10, 1953, as amended at 21 FR 1349, Mar. 1, 1956; 22 FR 5683, July 18, 1957; 24 FR 204, Jan. 8, 1959]

§ 520.11 Amendment to the regulations in this part.

The Administrator may at any time upon his own motion or upon written request of any interested person setting forth reasonable grounds therefor, and after opportunity has been given to interested persons to present their views, amend or revoke any of the terms of the regulations contained in this part.

[18 FR 3292, June 10, 1953]

PART 521—EMPLOYMENT OF APPRENTICES

Sec.

521.1 Employment of apprentices at subminimum wages.

521.2 Definitions.

521.3 Standards of apprenticeship.

521.4 Criteria for a skilled trade.

521.5 Procedure for employment of an apprentice at subminimum wages.

521.6 Issuance of special certificates.

521.7 Terms of special certificates.

521.8 Records.

521.9 Amendment of this part.

521.10 Investigations and hearings.

521.11 Reconsideration and review.

AUTHORITY: Sec. 14, 52 Stat. 1068, as amended; 29 U.S.C. 214, unless otherwise noted.

SOURCE: 16 FR 8884, Sept. 1, 1951, unless otherwise noted.

§ 521.1 Employment of apprentices at subminimum wages.

The Administrator or his authorized representative, to the extent necessary in order to prevent curtailment of opportunities for employment, shall issue special certificates to employers or joint apprenticeship committees¹ authorizing the employment of apprentices in skilled trades at wages lower than the minimum wage applicable under section 6 of the Fair Labor Standards Act of 1938, as amended, subject to the conditions and limitations prescribed in this part.

§ 521.2 Definitions.

As used in this part:

(a) *Apprentice* means a worker at least sixteen years of age, except where a higher minimum age standard is otherwise fixed by law, who is employed to learn a skilled trade as defined in § 521.4, and in conformity with or substantial conformity with the standards of apprenticeship as set forth in § 521.3.

¹An individual employer participating in an apprenticeship program under the control and supervision of a joint apprenticeship committee may employ an apprentice under a temporary or special certificate issued to or held by such joint apprenticeship committee. However, it is the responsibility of the employer, and not of the joint apprenticeship committee, that such employment be in compliance with the regulations and with the certificate.